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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,202	09/01/2004	Mark Yamazaki	81101748 / FMC 1767 PUS	5201
28395	7590	10/27/2006	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			HO, HA DINH	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/711,202	Applicant(s) YAMAZAKI ET AL.	
	Examiner Ha D. Ho	Art Unit 3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/01/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the first Office Action on the merits of Application No. 10/711,202 filed on 09/01/04. Claims 1-20 are currently pending.

Election/Restrictions

2. Applicant's election without traverse of the invention of group I, claims 1-10, in the reply filed on 08/09/06 is acknowledged.
3. Claims 11-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/09/06.

Claim Objections

4. Claim 2 is objected to because of the following informalities: in line 3, "a vehicle wheel" should be changed to --the vehicle wheel--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russell et al'597 in view of Gocho'862.

Russell et al teach a method of operation a vehicle, which includes a power transfer unit 15 for driving a vehicle wheel 19 and having a plurality of gear ratios and at least one power source 10 for driving the power transfer unit, the method comprising calculating a speed ratio value SR (see col. 4, line 63-67), comparing the speed ratio value SR to a threshold value SR1 (see Fig. 5, block 512), and inferring a torque disturbance (Fig. 5, block 516) if the speed ratio value SR is greater than the threshold value SR1.

Russell et al disclose that the speed ratio SR is determined based on the turbine speed and engine speed (col. 4, lines 63-65), and the turbine speed can be determined from gear ratio and vehicle speed. It is old and well known in the art that gear ratio can be determined based on a drivetrain output speed (engine speed) and a wheel speed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to calculate the speed ratio value of Russell et al based on a drive train output speed and a wheel speed since it is old and well known in the art.

The vehicle of Russell et al is not a hybrid electric vehicle.

Gocho shows a hybrid electric vehicle including an engine, an electric motor, a generator and a battery (col. 1, lines 58-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Russell et al to be a hybrid electric vehicle in view of Gocho in order to increase the fuel efficiency of the engine and decrease fuel consumption and pollution (col. 1, line 67 to col.2, line 2).

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Allowable Subject Matter

7. Claims 2-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Cited Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Kresse et al'313 shows a method for limiting the drive torque of a motor vehicle during operation on low traction road surfaces, and Friedmann'626 shows a drive assembly for a motor vehicle having transmission ratio related to the engine speed and the wheel speed.

Communication

9. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to
the Patent and Trademark Office on _____

(Date)

Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH
(571) 272-7091
October 19, 2006


HAHO
PRIMARY EXAMINER
Art Unit 3681

10/19/06